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June 25, 2024

Honorable Gabriel W. Gorenstein (*by ECF*)
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: United Probation Officers Association, et al. v. City of New York, 21-cv-218
(RA) (GWG)

Dear Magistrate Judge Gorenstein:

I am an Assistant Corporation Counsel in the office of Muriel Goode-Trufant, Acting Corporation Counsel of the City of New York, attorney for defendant City of New York in this action. In light of the June 20, 2024 Order, I write to advise the Court of the status of discovery on issues relating to proposed class certification following the parties' "meet and confer" session held earlier today.

I, along with my colleague, Susan Scharfstein, who joined the Labor and Employment Division yesterday, engaged in a lengthy conference with counsel for plaintiff beginning at 10:00 a.m. and concluding at 12:15 p.m.¹ Although a significant part of the conference was taken up with extraneous collateral matters raised by plaintiffs' counsel, the parties were able to make meaningful progress once we were able to focus attention on the matters at issue.

Significantly, during the "meet and confer" session, plaintiffs' counsel acknowledged that much discovery has been produced to date. With regard to the remaining items, we explained to plaintiffs' counsel that, as a result of staffing turnover in this office, the attorneys recently assigned would need time to review the discovery that had taken place to date -- and we have every intention of doing so.

¹ Although Ms. Corinthian was unable to attend today, we did not wish to delay and believed that two attorneys from this office were sufficient to proceed with the meeting.

We also sought clarification of certain categories of items as to which plaintiffs had requested that we follow up on. In response to our clarification inquiries, we encountered resistance. Plaintiffs' counsel was unable or unwilling to explain why the discovery that plaintiffs sought was relevant to class certification or would advance their interests in establishing any of the elements as to which they must satisfy their burden. In other cases, it became clear that categories of the document discovery that plaintiffs sought had not been the subject of written requests prior to being referenced in plaintiffs' June 17, 2024 so-called "deficiency" letter. We nonetheless agreed to review the discovery that has been provided by the City and, where appropriate, interface with client contacts to obtain additional information. We also offered to produce what additional material was available as quickly as possible and to provide updates to counsel as they became available. Lastly, we proposed to provide a comprehensive update within two weeks' time.

In addition to trying to work with plaintiffs' counsel, we have already taken steps to arrange meetings with representatives of our client agencies to obtain further information. We have asked plaintiffs' counsel to allow us reasonable time in which to accomplish the necessary tasks in an efficient and accurate manner. Once document discovery has been completed, we intend to proceed with depositions as agreed upon.

The parties then scheduled a follow-up "meet and confer" session to take place on Monday, July 1, 2024, at 2:00 p.m.² We are hopeful that we will be able to make further progress in resolving the issues of outstanding document production and will then begin to schedule depositions in the near term without need for further Court intervention.

In conclusion, we wish to assure the Court of our commitment to moving forward to complete the discovery on class certification as expeditiously as possible. I thank the Court for its time and attention to this matter.

Respectfully,

/s/

Hyatt M. Howard
Assistant Corporation Counsel

cc: All counsel of record (via ECF)

² We were disappointed to learn by way of e-mail message received at 1:06 p.m., less than an hour after the conclusion of today's "meet and confer" session, that plaintiffs' counsel had apparently misunderstood our clearly-stated and repeated comments during the discussion to the effect that we were unable to commit to short-term dates during this week to complete specific tasks without having had an opportunity to review the necessary materials and to consult with client agency contacts.